

No. 20-1495

IN THE UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

LEADERS OF A BEAUTIFUL STRUGGLE, *et al.*,
Plaintiffs–Appellants,

v.

BALTIMORE POLICE DEPARTMENT, *et al.*,
Defendants–Appellees.

On Appeal from the United States District Court
for the District of Maryland at Baltimore

**MOTION OF THE POLICING PROJECT FOR LEAVE TO
FILE BRIEF AS *AMICUS CURIAE* IN SUPPORT OF NEITHER
PARTY AND IN SUPPORT OF REHEARING OR
REHEARING EN BANC**

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Counsel for Amicus Curiae

Pursuant to Federal Rule of Appellate Procedure 29(b) and Fourth Circuit Local Rule 28(b), the Policing Project at New York University School of Law (the “Policing Project”) respectfully moves for leave to file a brief and accompanying report as *amicus curiae* in support of neither party and in support of rehearing or rehearing en banc. Movant comes in favor of no party, but truly as *amicus curiae*, in an effort to aid this Court in the correct disposition of this case. In support thereof, Movant represents as follows:

1. The mission of *amicus* Policing Project is to partner with communities and police to promote public safety through transparency, equity, and democratic engagement. It works with all stakeholders, on national projects, and in jurisdictions across the country, to advance public safety. The interpretation by courts of the Fourth Amendment is of particular interest and concern to the Policing Project, given the impact of those interpretations on public safety and individual rights alike.

2. The Memorandum of Understanding between the Baltimore Police Department and its vendor Persistent Surveillance Systems (the “MOU”), approved by the Baltimore Board of Estimates on April 1, 2020, designated the Policing Project as the entity to conduct a civil rights and civil liberties audit of the Aerial Investigation Research Program (the “AIR Program”). The Policing Project was given unfettered access to the AIR Program’s operations

at the Baltimore Police Department and Persistent Surveillance Systems, precisely so that it could obtain a full and complete understanding of the program's operations.

3. The Policing Project issued its public report, pursuant to the Board of Estimates approval of the MOU, on November 27, 2020. That report is an attachment to the Policing Project's brief *amicus curiae*.

4. The proposed *amicus* brief and accompanying report provide essential context for this Court's decision whether to grant rehearing or rehearing en banc. As explained in *amicus*'s brief and accompanying report, the panel opinion in this case misapprehended the nature of the AIR Program's operations in ways critical to the Court's resolution of the issues before it. This case involves Fourth Amendment issues of great moment. *Amicus* respectfully suggests in its brief that resolution of this case should not rest on a misunderstanding of the basic facts.

5. All parties consent to the filing of the proposed brief and report.

For the foregoing reasons, the Policing Project respectfully requests that the Court grant this motion for leave to file the proposed *amicus* brief and accompanying report.

Respectfully submitted,

/s/ Farhang Heydari

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CERTIFICATE OF SERVICE

I hereby certify that on November 27, 2020, I electronically filed the foregoing motion with the Clerk of Court using the CM/EFC system. Counsel for all parties are registered CM/ECF users and will be served with the foregoing motion by the Court's CM/ECF system.

/s/ Farhang Heydari

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UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
APPEARANCE OF COUNSEL FORM

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☐ Retained ☐ Court-appointed(CJA) ☐ CJA associate ☐ Court-assigned(non-CJA) ☐ Federal Defender

☒ Pro Bono ☐ Government

COUNSEL FOR: The Policing Project at New York University School of Law

_____ as the
 (party name)

☐ appellant(s) ☐ appellee(s) ☐ petitioner(s) ☐ respondent(s) ☒ amicus curiae ☐ intervenor(s) ☐ movant(s)

/s/ Farhang Heydari

(signature)

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